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9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF NEVADA**

12 PHILLIP MINOR,

13 Petitioner,

14 vs.

15 BRIAN WILLIAMS., et al.,

16 Respondents

CASE NO. 2:15-cv-02005-RFB-PAL

**UNOPPOSED MOTION TO CONTINUE
BRIEFING SCHEDULE
(Second Request)**

Date: August 3, 2017

17 The Petitioner, Philip Minor (Mr. Minor), by and through his counsel of record, Gia
18 McGillivray, and pursuant to Local Rule IA 6-1, hereby respectfully moves this Honorable Court
19 for a 40-day continuance of the briefing schedule set by the Court in this matter on May 5, 2017.
20 (ECF No. 11.) According to the Order, Mr. Minor's amended petition for writ of habeas corpus is
21 scheduled to be filed on August 3, 2017. (ECF No. 11.)

22 1. On October 16, 2015, Mr. Minor filed an Application to Proceed in Forma Pauperis,
23 (ECF No. 1), a Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in
24 State Custody ,(ECF Nos. 1-1, 1-2), and an Ex Parte Motion for Appointment of Counsel (ECF
25 No. 2).

26 2. On September 13, 2016, the Court issued an Order granting the Motion to Proceed
27 in Forma Pauperis and the Motion for Appointment of Counsel. (ECF No. 3.) Pursuant to the
28 Order, the Federal Public Defender was appointed to represent Mr. Minor. (ECF No. 3.)

3. The Federal Public Defender responded to the Order on September 16, 2016, by
filing a Notice of Conflict, advising that the Federal Public Defender could not undertake
representation and requesting that the Court appoint alternate counsel. (ECF No. 5.)

1 4. On February 8, 2017, this Court appointed the undersigned to represent Mr. Minor.
2 (ECF No. 8.) The Order further established that Mr. Minor file an amended petition for writ of
3 habeas corpus within ninety (90) days of entry of the Order, that respondents have forty-five (45)
4 days after service of the amended petition within which to answer and that petitioner shall have
5 forty-five (45) days after service of the answer to file and serve a reply. (ECF No. 8.)

6 5. Following appointment, undersigned counsel has had telephone contact with Mr.
7 Minor and researched the issues presented by Mr. Minor. Mr. Minor is currently housed in Ely,
8 Nevada. Undersigned counsel was able to meet travel to Ely to meet with Mr. Minor. Counsel
9 visited with Mr. Minor on June 2, 2017.

10 6. Undersigned counsel has also pursued obtaining the case file from the Eighth
11 Judicial District Court of Nevada. Mr. Minor's case file was erroneously sealed due to a co-
12 defendant's minor status. Following contact with the Court, Mr. Minor's case was to be unsealed
13 and all documents properly redacted to conceal references to the co-defendant, whose file was to
14 remain sealed. There has been a lengthy delay in obtaining the necessary documents from the
15 court. Although Mr. Minor's file was to be unsealed, the Clerks office continued to deny requests
16 for copies. Eventually, a Senior Records Tech from the Eighth Judicial District Court was
17 involved and counsel was able to order copies of the file. The redaction process took the Clerk's
18 office some time. On July 19, 2017, the Clerk's office provided counsel with over 800 pages of
19 documents from Mr. Minors court file.

20 7. Undersigned counsel requires a continuance to properly prepare an amended
21 petition.

22 8. Counsel has confirmed that the Government does not oppose the requested
23 extension.

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1 For the reasons set forth above, Mr. Minor respectfully requests a 40 day continuance of
2 the presently scheduled briefing deadlines set in this case. (ECF No. 8.).

3 DATED this 2nd day of August, 2017.

4 MCGILLIVRAY LAW

5 By: /s/ Gia McGillivray

6 Gia McGillivray, Esq.

7 Nevada Bar No. 008182

8 IT IS SO ORDERED:

9 

10 RICHARD F. BOULWARE, II

11 United States District Judge

12 DATED this 9th day of August, 2017.

CERTIFICATE OF SERVICE

I hereby certify that on the date of filing of the document named below with the Clerk of the Court, I cause a true and correct copy to be served in the following manner:

DOCUMENT(S) SERVED: MOTION TO WITHDRAW AS COUNSEL OF RECORD

☒ ELECTRONIC SERVICE: Pursuant to Local Rule LR 5-4 of the United States District Court for the District of Nevada, the above-referenced document was electronically filed and served on all appearing parties through the Notice of Electronic Filing automatically generated by the Court.

☒ UNITED STATES MAIL: By depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

Phillip Minor #21879
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

☐ OVERNIGHT COURIER: By depositing a true and correct copy of the above-referenced document for overnight delivery via a nationally-recognized courier, addressed to the parties listed below at their last-known mailing address.

☐ FACSIMILE: By sending the above-referenced document via facsimile to those persons listed on the attached service list at the facsimile numbers set forth thereon.

☐ EMAIL: By sending the above-referenced document via email to those persons at the email addresses set forth below:

/s/Gia McGillivray
Gia McGillivray